

REMARKS

Claims 1-15 and 17-23 were pending in the current application. Claim 23 was canceled by the Office. Applicants have amended claims 1 and 22 and added new claims 24 and 25, leaving claims 1-15, 17-22, 24 and 25 pending. No new matter has been added. Reexamination and reconsideration of all pending claims are respectfully requested.

Restriction

The Office Action canceled claim 23 from prosecution. Applicant disagrees with cancellation in this manner and the assertion in the Office Action that claims differing in scope are subject to restriction. Applicant submits that unilateral cancellation of claims without offering the opportunity to elect or traverse is improper and requests reconsideration of this unilateral claim cancellation.

In the event claim 23 remains cancelled, Applicant specifically reserves the right to resubmit claim 23 at a later time.

35 U.S.C. § 101

The Office Action rejected claim 22 under 35 U.S.C. §101. Applicant has amended claim 22 to recite specific apparatus used in performing the method claimed. By this amendment, Applicant submits that all claims, as amended, conform to 35 U.S.C. §101.

35 U.S.C. § 112

The Office Action rejected claims “1-21” under 35 U.S.C. §112, first paragraph, based on certain phrasing employed in claim 1. Applicant notes that claim 16 had been canceled.

The Office Action takes issue with the word “configured” in claim 1, such as “a server configured to facilitate an escrow transaction between...a first escrow client

subsystem...a second escrow client subsystem...” and “first software configured to facilitate the escrow arrangement...” With respect to the server, Applicant points to FIG. 1, including EAS server 50 positioned between three escrow clients (60, 70, and 80) and three broker clients. As noted in the Specification at p. 5, ll. 15-16, “In accordance with the present teachings, the broker clients are connected to the escrow clients via a server 50 and a network 90.” Description of the functional connections are also described at p. 5, ll. 3-10 of the Specification, including discussion of the three escrow clients and three broker clients. Operation is discussed throughout the Specification, including but not limited to p. 3, ll. 15-16 and 21-22 (“software includes code for receiving customer escrow data...for establishing a video-conference between the first client and the second client via the network...code for facilitating an escrow opening meeting online.”) See also, Specification, p. 7, ll. 16-18 (“conventional software may be implemented on the server 50 to facilitate the routing of video-conferencing calls...”)

In this manner, the Specification discloses an EAS server “configured” “to facilitate an escrow transaction between...a first escrow client subsystem...a second escrow client subsystem.” Configuration of the EAS server 50 in the manner claimed is disclosed in the Specification.

Applicant acknowledges that the actual word “configured” is not employed in the Specification. However, Applicant is not limited to only the exact phrases employed in the Specification, and as noted above the Specification clearly supports the server being configured in the manner claimed. The absence of this specific word is not fatal to the concepts clearly disclosed and invention claimed.

With respect to “first software configured to facilitate the escrow arrangement...” Applicant points to the passage at p. 3, ll. 4-12, which states “the first client subsystem includes a microprocessor, software running on the microprocessor for facilitating an escrow arrangement...the second client subsystem includes a microprocessor, software running on the microprocessor *for facilitating an escrow arrangement*...” Applicant submits that “software...*for facilitating an escrow arrangement*” in view of the entirety

of the present Specification demonstrates and/or provides support for “...software configured to facilitate the escrow arrangement...”

The Office Action further rejected claim 1 based on the terms “first software” and “second software.” As noted, the passage at p. 3, ll. 4-12 recites “the first client subsystem includes a microprocessor, software running on the microprocessor for facilitating an escrow arrangement...the second client subsystem includes a microprocessor, software running on the microprocessor for facilitating an escrow arrangement...” As may be appreciated by one skilled in the art, the fact that two mentions are made in this passage of a “microprocessor” does not indicate that a single microprocessor is employed in the first client subsystem and second client subsystem, but rather, indicates two separate microprocessors are employed, such as a first microprocessor and a second microprocessor, even though the words “first” and “second” are not expressly employed. Similarly, software operating on each microprocessor, while such software might be identical, represents two software instances, one running on each of the microprocessors. Thus the foregoing passage supports “first software” and “second software” as such language would be understood by one skilled in the art, despite the fact that the words “first” and “second” are admittedly not employed in the foregoing passage.

The Office Action also rejected claim 1 based on the terms “first communication device” and “second communication device.” Applicant initially notes that the term “communication device” was employed in the original claim 1 as filed, and the originally filed claims are part of the Specification. Further, the above cited passage at p. 3, ll. 4-12, as well as the Abstract of the present application, discloses a camera coupled to the microprocessor on both the first client subsystem and the second client subsystem. As with the two microprocessor/two software discussion above, one of ordinary skill in the art would understand that the present Specification discloses a “first communication device” and a “second communication device” as claimed.

The Office Action also rejected claims 1-22 based on the recitation in claims 1 and 22 of “the second party.” Applicant has amended these claims and submits that these claims, as amended, now satisfy 35 U.S.C. §112, first paragraph.

Thus Applicant submits that all claims, as amended, conform to 35 U.S.C. §112.

35 U.S.C. § 103

The Office Action rejected claim 1 under 35 U.S.C. §103 based on Triola, U.S. Patent Publication 2001/0047328 (“Triola”), and claims “2-22” under 35 U.S.C. §103 based on Triola in view of Mini et al., U.S. Patent 6,684,196 (“Mini”). Again, claim 16 is no longer pending.

Triola discloses a method and apparatus for processing escrow transactions. Missing completely from Triola is the concept of videoconferencing and the ability to video conference potential buyers and sellers with independent escrow agents, a concept disclosed in the present Specification. (Specification, p. 3, l. 15). With respect to FIG. 2 of the present application, Triola fails to include the “camera” shown as part of input device 23. Triola fails to disclose or suggest the functionality discussed at, for example, p. 5, l. 23 to p. 6, l. 3, or p. 6, l. 19 through p. 7, l. 11.

With respect to specific claim language in claim 1, Applicant has amended claims 1 and 22 to specifically recite, for example, “said first [second] communication device comprising a first [second] camera configured to be operated with the first [second] software to facilitate an [the] online videoconference meeting regarding an existing escrow” (claim 1, with similar amendment to claim 22). Triola is said to “implement, manage, and [track] on-line digital transactions via an escrow...via a medium such as the internet.” Triola, Abstract. Triola is directed to a computerized and internet implementation with no suggestion of the videoconferencing aspect claimed in amended claims 1 and 22 or new claim 24.

Applicant further notes that the Office Action relies on Mini et al., U.S. Patent 6,684,196 (“Mini”), for the aspect of videoconferencing. *See, e.g.* Office Action, p. 7.

Mini discloses a system for facilitating a sale of real property “between a buyer and a seller.” Mini, Abstract. Services provided to the buyer and seller include choosing an agent (step 206, FIG. 2), finding a home (step 214), establishing a contract (step 220), and negotiating a closing (step 222).

The Office Action relies on the following portions of Mini in rejecting claims 2-22: “Abstract; Figure 9, col. 2 lines 60-67; col. 8 lines 40-55 (video conference includes camera)].” Office Action, p. 7, with other specific passages used to supplement specific rejections of individual claims.

Taking these in order, the Abstract of Mini says nothing about videoconferencing, but merely discusses “facilitating a transaction” among other irrelevant attributes of the design.

FIG. 9 is a drawing of lengthy paragraphs discussing online real estate experts, where Field Agents show properties and do a due diligence inspection of the property. No mention is made of videoconferencing.

Col. 2, ll. 60-67 has nothing to do with videoconferencing:

...The buyer may also schedule inspections and comply with various regulatory requirements. The buyer and seller may engage in complicated negotiations with regard to the selling price of the property as well as many other standard and nonstandard terms and contingencies. The buyer and seller may establish an escrow account for effecting transfer of title. Both buyer and seller may monitor the status of the transaction at any time.

This passage simply discusses negotiations between the buyer and seller and fails to mention videoconferencing or other concepts disclosed in claims 1, 22, and 24.

Finally, col. 8, ll. 40-55 of Mini actually does mention videoconferencing; however, the videoconference is limited to the buyer and agent “getting to know each other”:

This information is processed (block 1006), and reviewed and filtered by a customer service agent (block 1018), after which the buyer and the selected virtual agent connect by, for example, phone or an online audio or video conference (blocks 1020 and 1022) during which the buyer and the agent get to know each other and the agent describes the buying process including the next steps to be completed.

(emphasis added).

This “getting to know each other” differs from the claimed limitations in amended claims 1 and 22 and new claim 24, which recite

a first communication device operable to communicate escrow information based on instructions from said first software, said first communication device comprising a first camera configured to be operated with the first software to facilitate an online videoconference meeting regarding an existing escrow, (claim 1 as amended)

Applicants note block 106 in FIG. 3(b), illustrating the decision between a “new” escrow (“yes” branch) and an existing escrow (“no” branch). In the case of the escrow being existing, or not new, the system in the “no” branch conducts a videoconference meeting, a meeting neither suggested nor disclosed by Mini. The Mini “get to know each other” design fails to perform in the manner claimed, fails to discuss escrow in an significant regard, and Applicant further notes that Triola also does not provide a first camera configured to be operated with the first software to facilitate an online videoconference meeting regarding an existing escrow.

Claim 22, as amended, requires “...wherein the escrow service at least partially comprises conducting a videoconference meeting regarding an existing escrow between the first escrow service provider and the second party ...” Mini does not conduct a

videoconference meeting as claimed, and Triola fails to disclose or suggest this limitation as well.

Applicants also dispute the combination of Triola with Mini in the manner suggested. The Office Action is using improper hindsight in combining these references. The reasoning provided for combining Triola with Mini is “to facilitate a transaction between a buyer and a seller...to allow the two parties to know each other over the virtual network and [negotiate] the terms, condition and delivery of valuables through a trusted third party.” Applicant submits that “getting to know” is immaterial to the present claims, and the foregoing “reasoning” is simply an after-the-fact justification used to combine the two references in an effort to deprecate the present invention. There has been no reasoning presented, with specific factual underpinnings, justifying the combination of Mini with Triola, in violation of the KSR requirements for combining references. For this further reason, claims 1-15, 17-22, 24, and 25 are allowable.

Accordingly, it is respectfully submitted that all pending claims, as amended, fully comply with 35 U.S.C. § 103.

CONCLUSION

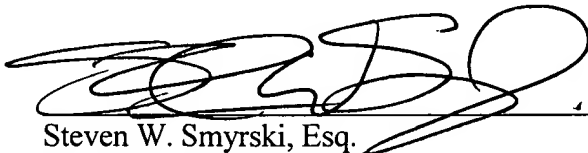
In view of the foregoing, it is respectfully submitted that all claims of the present application are in condition for allowance. Reexamination and reconsideration of all of the claims are respectfully requested and allowance of all the claims at an early date is solicited.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant believes that no fees are due in accordance with this Response beyond those included herewith. Should any fees be due, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account 502026.

Respectfully submitted,

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